

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

Associated Air Center

for an exemption from § 25.2(b) of the
Federal Aviation Regulations

Regulatory Docket No. 28759

DENIAL OF EXEMPTION

By petition dated November 27, 1996, Mr. Jim Martin, Manager, Aircraft Structures, Associated Air Center, P.O. Box 540728, Dallas, Texas 75354, petitioned for exemption from the requirements § 25.2(b), which, by reference to another requirement, limits the maximum distance between emergency exits to 60 feet, for a Boeing Model 757 airplane configured with a VIP interior and a maximum of approximately 76 feet. between two exits.

Section of the FAR affected:

Section 25.2(b) requires that, irrespective of the date of application, each applicant for a supplemental type certificate (or an amendment to a type certificate) for an airplane manufactured after October 16, 1987, must show that the airplane meets the requirements of § 25.807(c)(7) in effect on July 24, 1989.

Related sections of the FAR:

Section 25.807(c)(7) in effect on July 24, 1989, (i.e., as amended by Amendment 25-67), requires that for an airplane that is required to have more

than one passenger emergency exit for each side of the fuselage, no passenger emergency exit shall be more than 60 feet from any adjacent passenger emergency exit on the same side of the same deck of the fuselage, as measured parallel to the airplane's longitudinal axis between the nearest exit edges.

(Note: The above § 25.807(c)(7) requirement was administratively renumbered as § 25.807(d)(7) by Amendment 25-72.)

Section 25.807(c)(1), as amended by Amendment 25-39, requires in pertinent part, that for passenger seating configurations of 40-79 seats, the minimum number and type of passenger emergency exits on each side of the fuselage is one Type I and one Type III exit.

The petitioner's supportive information is as follows:

“Associated Air Center (AAC) is modifying a Boeing 757-23A to an executive configuration for Saudi Royal Flight, operated under the Saudi Presidency of Civil Aviation. Associated Air Center's modification includes the complete removal of the R3 door at station 1335.22. The modified interior configuration accommodates 58 occupants consisting of 46 passengers, 7 flight attendants, 1 medical attendant, and 4 flight crew. Associated Air Center completely removed the R3 door at the customer's request and reskinned the area, thus leaving doors RI, R2, R4, L1, L2, L3, and L4. Removal of the R3 door will not comply with the intent of § 25.2(b). This petition is for a permanent exemption applicable to the Boeing 757-23A, serial number 25495, only when it is configured to an executive interior with 46 passengers accommodated in seating qualified for take-off and landing.

“Associated Air Center submits that granting the exemption sought will not adversely affect safety, and an equivalent level of safety will be provided if the exemption is granted. Granting the exemption is consistent with previous similar grants of exemption, and granting the exemption will be in the public interest for the following reasons:

- “• Section 25.807(d)(7) states that for an airplane that is required to have more than one passenger emergency exit for each side of the fuselage, no passenger exit shall be more than 60 feet from any adjacent passenger emergency exit on the same side of the same deck of the fuselage, as measured parallel to the airplane's longitudinal axis between the nearest exit edges.

- “• Section 25.807(g), as amended by Amendment 25-88, states that, “The maximum number of passenger seats permitted depends on the type and number of exits installed in each side of the fuselage. Except....the maximum number of passenger seats

permitted for each exit of a specific type installed in each side of the fuselage is as follows:

Type	“Number of Passengers
A	110
B	75
C	55
I	45
II	40
III	35
IV”	9”

“• Associated Air Center is modifying a Boeing 757-23A airplane with an executive interior, with accommodations for a total 46 passengers, 7 flight attendants, 1 medical assistant, and 4 crew members. This configuration includes compartmentalized rooms for privacy. The highest concentration of occupants exists between stations 654.75 and 1634.75, with accommodations for 41 passengers and 3 flight attendants. This is in an area where there are one Type C and two Type B exits on the right-hand side of the fuselage, and three Type B and one Type I exits on the left-hand side of the fuselage. Associated Air Center submits that granting the exemption will not adversely affect safety.

“Section 25.807(d)(5), as amended by Amendment 25-72, states that, “An alternate emergency exit configuration may be approved in lieu of that specified in paragraph (d)(1) or (d)(2) of this section provided the overall evacuation capability is shown to be equal to or greater than that of the specified emergency exit configuration.” This rule recognizes that the emergency exit requirements of paragraph (d)(1) may not always accommodate every desired seating configuration, especially when there is an operational and economic need, as in this case, to reconfigure a 757-23A passenger aircraft to an executive interior with accommodations for 46 passengers.

“Associated Air Center is essentially seeking FAA concurrence that the overall evacuation capability of this configuration is equal to or greater than that with one Type C emergency exit for each side of the fuselage. Associated Air Center submits that the evacuation capability of this configuration is actually greater than the combination of one Type C exit for the reasons stated below:

“Associated Air Center’s executive interior configuration has the highest concentration of occupants between stations 654.75 and 1634.75, in the same area where there are two Type B and one Type C emergency exits on the right-hand side of the fuselage, and three Type B and one Type I emergency exits on the left-hand side of the fuselage. The

seating capacity of this configuration is significantly reduced from the basic Boeing 757-23A passenger configuration.

“While operating a Boeing 757-23A aircraft with 46 passenger seats under the Saudi Presidency of Civil Aviation operating rules is roughly equivalent to operating under part 91, § 91.533 requires a minimum of one flight attendant. Section 91.533 states that airplanes having more than 19 but fewer than 51 passengers require one flight attendant. Saudi Royal Flight will operate its Boeing 757-23A with a total of 7 flight attendants, with 3 of the 7 flight attendants located where there is the highest concentration of passengers. This provides at least 3 times the minimum number of flight attendants required. The number of professionally trained and qualified flight attendants able to open the emergency exits and assist in the evacuation is tripled, thereby adding significantly to the overall evacuation capability of this configuration.

“Section 91.607(c) states that, “No person may eliminate any approved exit except in accordance with the following:

“(1) The previously authorized maximum number of occupants must be reduced by the same number of additional occupants authorized for that exit under this section.

“(2) Exits must be eliminated in accordance with the following priority schedule: First, non-over-wing window exits; second, over-wing window exits; third, floor-level exits located in the forward part of the cabin; and fourth, floor-level exits located in the rear of the cabin.

“(3) At least one exit must be retained on each side of the fuselage regardless of the number of occupants.

“(4) No person may remove any exit that would result in a ratio of maximum number of occupants to approved exits greater than 14: 1.”

“Saudi Royal Flight operating its Boeing 757-23A under part 91 with a configuration of seven emergency exit doors that meets the intent of § 25.807, as amended by Amendment 25-88, for 46 passengers, would result in a passengers-to-approved-exits ratio of 7:1, which is far below the 14:1 maximum required by § 91.607(c).

“Saudi Royal Flight and AAC state that this aircraft is flying under part 91 and not part 121, as a passenger/revenue-type operator. Associated Air Center is essentially requesting the FAA to concur that this part 91 aircraft does not fall under § 25.2(b), as amended by Amendment 25-67, which states that irrespective of the date of application, each applicant for a supplemental type certificate (or an amendment to type

certificate) for an airplane manufactured after October 16, 1987, must show that the airplane meets the requirements of § 25.807(c)(7) in effect on July 24, 1989.

“Granting this petition is in the public interest, since as the world’s leading manufacturer of commercial aircraft, the United States should continue its leadership role in developing new and innovative uses for its aircraft. Many foreign operators (such as Saudi Royal Flight) consciously decide to operate aircraft of U.S. manufacture and to comply with applicable sections of the FAR for their operations due to the increased level of safety afforded by U.S. standards.

“In this case, an equivalent level of safety is shown. The leadership role of the United States in aviation is strengthened and the useful life of American products is expanded. As more and more demand is generated for executive interior modifications such as AAC’s, a slow but sure demand is also emerging for the operation of aircraft so modified, which gives rise to this exemption request. Utilizing the provisions of § 25.807(d)(5) to approve an alternate emergency exit configuration assists us in meeting that demand.”

“Granting this petition would affect a single aircraft only, and would not set a precedent. Exemptions have been previously granted for a reduction in the number of Type I emergency exits on each side of the fuselage, for passenger-to-combi configuration conversions. This petition is for 46 passengers with the aid of seven flight attendants utilizing five Type B, one Type C, and one Type I exit, and provides for an even greater evacuation capability. The rationale utilized in this petition request is similar to that expressed in exemptions previously granted.”

A summary of Associated Air Center’s petition was published in the Federal Register on January 13, 1997 (62 FR 1798). One comment was received, from an organization representing flight attendants, requesting that if the petition is granted, that it only apply to the specific configuration involved, and that the grant not be considered or cited as a precedent in any future regulatory proceedings.

The FAA's analysis/summary is as follows:

For airplane configurations that had been encountered during a period of many years, the requirements of § 25.807 which addressed the type and number of emergency exits with respect to occupancies and the uniform distribution of emergency exits with respect to passenger distributions, had proven satisfactory. However, partly in response to certain industry trends that were becoming apparent, and in particular to a highly publicized in-service deactivation of exits which were no longer required by a reduced passenger occupancy, and which resulted in a distance between emergency exits that

had not been previously considered, the “60-ft. rule” was promulgated by Amendment 25-67.

As Notice 87-10 and the final rule to Amendment 25-67 very clearly indicate, the intent of the 60-ft. rule is to prescribe an upper limit to the distance that an occupant might potentially have to traverse in order to reach a useable emergency exit during the difficult and unpredictable conditions of an actual emergency. That discussion will not be repeated here in depth, since it has been readily available to AAC and the public in those documents since 1987, except to indicate that the intent is to prescribe this maximum distance irrespective of any passenger occupancies or emergency exit capabilities.

Accordingly, the petitioner’s arguments in this regard are not considered relevant. Similarly, the petitioner’s arguments of public interest are considered instead to be arguments in favor of executive interior configurations in general, rather than arguments which justify exemption from the 60-ft. rule. And finally, contrary to the petitioner’s assertions, the FAA is not aware of having received, nor granted, any previous petitions for exemption from this requirement. To summarize, the petitioner has sought, without appropriate justification, exemption from the rule which was promulgated specifically to prevent the type of configuration that the petitioner proposes.

In consideration of the foregoing, I find that a grant of exemption is not in the public interest. Therefore, pursuant to the authority contained in §§ 313(a) and 601(c) of the Federal Aviation Act of 1958, delegated to me by the Administrator (14 CFR 11.53), the petition of Associated Air Center for an exemption from § 25.2(b) of the FAR for a Boeing 757 aircraft is hereby denied.

Issued in Renton, Washington, on March 5, 1997

/s/

Neil D. Schalekamp
Acting Manager
Transport Airplane Directorate
Aircraft Certification Service, ANM-100